

COUNTY OF ULSTER
P.O. BOX 1800
KINGSTON, NEW YORK 12402

Environmental Committee:

Brian Shapiro, Chairman
Gary Bischoff
Dean J. Fabiano
Richard A. Parete
Laura Petit
Kevin Roberts
Hector Rodriguez



MINUTES
July 16, 2008
6:00 PM

Call to order:

6:05, Brian Shapiro, Chair

Present:

Brian Shapiro, Chairman; Gary Bischoff; Dean Fabiano, Richard A. Parete, Laura Petit, Kevin Roberts and Hector Rodriguez

Guests:

Amanda LaValle, Coordinator, Ulster County Department of the Environment (DoEnv); John Maylie, Chair, UC Environmental Management Council; Pete Robbins, Marbletown ECC; Michael Bemis, UCRRA; Dennis Doyle, Planning; Michael R. Brother, Barton & Loguidice, P.C.; Glenn Gidaly, Barton & Loguidice, P.C.; Scott Nostrand, Barton & Loguidice, P.C.; Miriam Strouse, secretary, DoEnv

Agenda:

Barton & Loguidice, P.C., presentation
UCRRA
Silver Hollow Road erosion
Catskill Mountain Railroad herbicide application
Army Corps of Engineers flood study
Department of the Environment
Environmental Management Council
Plastic Bag Legislation
Public comment

Presentation: Barton & Loguidice, P.C.

Michael R. Brother, Glenn Gidaly, and Scott Nostrand presented an overview of Barton & Loguidice, P.C., an engineering practice which specializes in meeting the needs of municipalities. Their website, <http://www.bartonandloguidice.com/>, describes the company as “a full-service, client-oriented firm with offices in Syracuse, Albany, Rochester, and Ellenville, New York, and Camp Hill, Pennsylvania. Our multi-disciplined professionals have expertise in engineering, planning, environmental science, landscape architecture and more” which has “The Experience to Listen, The Power to Solve.” The firm, which recently added an Ellenville office (see <http://www.bartonandloguidice.com/Default.aspx?tabid=397>), includes a mature environmental engineering division. Their practice’s comprehensive scope is reflected by projects in stormwater management (both MS4 and SWPPP [construction permits]), watershed modeling, stream restoration using “natural stream process design principles”, brownfields’ remediation to “take sites from under use to re-use”, green building using NYSERDA “FlexTech” standards (see <http://www.nyserda.org/programs/flextech.asp>), solid waste management (including locally-based institutional composting expertise), parks, trails, and rail trails planning, general recreation, central business district (CBD) revitalization, and economic development. Local clients include Lloyd, Saugerties, Marletown, and Ellenville. Another current Ulster County project will restore the 65 miles of historic carriage ways gracing the Mohonk Preserve, Mohonk Mountain House, and Minnewaska State Park lands. Committee members expressed appreciation for the presentation, and expressed particular interest in the firm’s expertise in brownfields’ remediation and rail trail development.

UCRRA:

Mike Bemis invited the Committee to meet, at UCRRA, at 5 PM, Tuesday, **August 12 for the UCRRA’s annual budget review.** He reminded us that Timothy DeGraff, UCRRA comptroller, had reviewed agency financial reports at the June ’08 Committee meeting. Noting wryly that Ulster County’s diesel fueled trucks still drive 584 miles (round trip) to tip our waste beyond Syracuse, he emphasized UCRRA’s renewed commitment to waste reduction. UCRRA has rolled out an “enhanced PR” campaign, and is in the process of branding itself. He displayed six sample logo/slogan combinations, and those present voted for their favorites.

Silver Hollow Road erosion:

Guest Bruce Barry, of Shandaken, discussed his concern with a high, steep, eroding stream bank on Silver Hollow Road along the Warner Kill Creek, near Route 214 in Chicester. He had concerns that, because this is a multijurisdictional site involving the town, the state, the county, the Catskill Mountain Railroad (on leased county land), the DEP, and FEMA, a bureaucratic stalemate has delayed remediation. The crumbling stream bank by the road has eroded rapidly since the remains of a massive concrete railroad bridge abutment nearby collapsed, blocking the former path of the stream. He circulated recent photographs of the site to show the potential collapse of the road, and the urgency of repair before the next flood.

If the road erodes in the next flood, the repair project would be even more expensive, and first responder access to this dead end road would be cut off.

The Chair asked Amanda LaValle to check the status of FEMA funding for the Silver Hollow site repairs.* The Committee also asked her to follow up, if necessary, with Dan Ahouse, Congressman Maurice Hinchey's Chief of Staff, if progress with FEMA is stalled.

Citing the ongoing problem on River Road in Esopus, Laura Petit urged the County to be proactive, rather than reactive, where erosion is threatening county roads.

Catskill Mountain Railroad herbicide application

Amanda LaValle reported a recent exchange with the Catskill Mountain Railroad Co., Inc. (CMRR) concerning herbicide spraying. CMRR has hired RWC, Inc., a Massachusetts-based herbicide applicator, to spray about eight miles of their right of way (ROW). This area, which includes the Gill farm, does *not* extend to the residential areas east of the Lower Esopus, within the city of Kingston, where the CMRR has used mechanical weed control. Incidentally, this same applicator also sprayed the ROW for CMRR last year.

The Railroad's Chairman, Harry Jameson, faxed documentation of the planned spraying to the DoEnv on the afternoon of 7/17/08. His letter stated that the herbicide would be applied the following day, and stated "As per Ulster County's requirement, find this letter as notification of the application being made on Wednesday, July 16, 2008."

Brian Shapiro prefaced his comments by noting that the Village of New Paltz is considering banning all pesticides use for landscaping. His concerns:

- It is not clear whether RWC, Inc. complied with the written notification and site posting mandates of the Ulster County Neighbor [Pesticide] Notification Law, which requires commercial pesticide applicators to provide written notice to the occupants of all abutting property within one hundred fifty feet of the application site at least forty eight hours before the application. See <http://www.co.ulster.ny.us/resolution-archives/2006/ILL%20No.%205%20of%202006.pdf>
- Part of the sprayed ROW lies within the NYC DEP watershed.
- The CMRR's letter faxed to the DoEnv was back-dated, as if to comply with a forty-eight hour requirement.

Amanda LaValle shared this letter with the Environmental Committee [the Committee], the Planning Department, the Health Department, and Dietrich Werner, head of the Ulster County Railroad Advisory Committee.

The Health Department's James Rodden followed up by contacting the CMRR and RWC. RWC does know the rules of notification. They pointed out that much of the sprayed ROW is non-residential, passing through Gill's rural acreage.

Hector Rodriguez also asked if the neighbors had been notified, and wanted to know what was in the spray, which last year was described as “all natural”. He recalled that in 2007 the CMRR had asserted that they could break the weed cycle with a one time herbicide use, and then would switch to mechanical control. However, 2008 is the third year of spraying. Hector stated that this [pesticide] situation is “more than a disappointment, I feel sandbagged...this is not how you build partnerships.” He wants the County to double check the relevant maintenance portions of its contract with the CMRR.

Dennis Doyle arrived at the meeting at this point, and was brought into the conversation by Brian Shapiro, who stated that it appeared that the CMRR may have ignored the notification requirements of the pesticide law. Dennis Doyle remembered that in 2007 the Railroad had claimed exemption as a legal railroad. However, when Brian Shapiro had checked with County counsel, their opinion was that the notification law does apply.

Brian Shapiro was also concerned that it appeared that the CMRR had not informed Dietrich Werner of their plans to spray. He said that he will check with Dietrich Werner of the Ulster County Railroad Advisory Committee to determine what he knew and when he knew it.

Laura Petit wants to “rein in” the CMRR, and proposed that the Committee consider making a recommendation to the DEC to request that a “formal notice of [neighbor] notification plan” be submitted to the DEC prior to future spraying, stating “how and whom” the applicator will notify.

Army Corps of Engineers flood study:

Dennis Doyle reported the current status of the Army Corps of Engineers (ACE) flood study of the Rondout, Esopus, and Wallkill. The ACE’s initial reconnaissance report concluded that these watersheds should be part of a larger watershed feasibility study. Such studies would cost \$2,000,000 to \$3,000,000 for each of the three watersheds; the included portion of the Wallkill watershed would extend south at least as far as Orange County. At a recent meeting of select stakeholders convened at DEC’s Region 3 office, Ulster County was represented by Dennis Doyle, Art Snyder, Wawarsing Supervisor Edward Jennings, and Rosendale Supervisor Patrick McDonough. At the end of that meeting, Ulster County requested that the minutes of the meeting be prepared for circulation to the larger group of stakeholders involved. However, the ACE operates on an extremely compressed timeline [...and this did not occur]. The ACE had initially sought responses from the stakeholders by a 6/30/08 deadline, which it extended to mid-July. However, Dennis just received notification of this July 17 or 18 deadline in a July 16th letter [today].

The Planning Department has responded to the ACE by drafting a letter authorizing the county to support proceeding to the feasibility phase, which would take 40-44 months, and would require Ulster County to share costs, and to operate and maintain facilities. Ulster

County would represent itself and some local municipalities in the feasibility phase, which only would require a commitment to the mandatory 50% local match (including in-kind services) for the project's execution. The county would share the project's ongoing, non-federal, operation and maintenance costs. The County's preliminary letter of agreement reflects verbal communication between the County, the Orange County Planning Commissioner, and the ACE. A formal feasibility agreement would be completed before the start of the feasibility phase.

The Corps needs to conduct hydraulic studies to predict the long-term evolution of these streams. To determine what is important along the streams, the local partners will need to synthesize current data, including land use and growth projections and build out analyses.

Two things could count towards an in-kind match. There is abundant pre-existing data including planning data, recent LIDAR data and new flood data. There is also active stakeholder involvement in all three watersheds.

In addition, there is potential state funding for the required 50% match. The involved municipalities have been asked to consider designation of these waterways as inland waterways. If the four streams were designated as inland waterways, then the relevant projects would become eligible for state funding through the NYS Department of State.

The DEC may provide the funding for the entire 50% local match. However, to lead this process, the ACE would require the DEC to find local municipal partners. The DEC is relying on its flood protection authority, as it is not clearly authorized to handle multi-purpose projects and participate in these studies under Environmental Conservation Law (ECL). This may not be critical, as these studies would focus more on habitat improvement and storm damage reduction than flood protection.

Participants in these meetings emphasized the priority of tangible projects, not just more studies. The Planning Department's letter to the DEC reflects this as follows: "There is a primary interest in considering numerous local pilot projects in this area that might include efforts that to some extent, provide some degree of limited flood relief and habitat restoration that might contribute to, and help inform, the larger planning process."

The DEC is about to mail its preliminary authorization to proceed to the feasibility phase to the ACE. The county is not making any specific, definite commitments by signing on to this preliminary authorization.

Dennis Doyle clarified that the primary purpose of doing the study is that it is a prerequisite to ACE funding for more substantial flood projects in the future. He noted that this project is not constrained by the ACE's typical flood protection cost-benefit analysis. Continuing with the process would permit Maurice Hinchey to lobby for funding for the subsequent phase.

Dennis Doyle also noted that the comment period on the Ulster County flood maps is about to start. He also noted that, post Katrina, FEMA has amended its levee regulations. Just as the revised New York state building code now requires new structures in floodplains to be built** two feet above the 100 year flood stage, the new levee rules mandate 3' rather than 1' of freeboard. This new rule impacts the three county levees in Rosendale, Kingston, and Ellenville.

Richard Parete voiced concern that this might become yet one more expensive study sitting on a shelf. Dennis Doyle agreed with him, and said that, at the meeting, the stakeholders had all wished for fewer studies and more funding for actual flood prevention.

Hector emphasized that, although he values habitat protection, stabilizing streambeds, especially Esopus Creek, is his first priority.

Amanda LaValle's commented that the ACE has built multi-objective projects. She referred to Jason Shea's recent presentation in Rosendale, where he described a California project where creation of a park at a wetland enhanced wildlife habitat, recreation, and flood water storage.

John Maylie commented that the authorization process is unclear, but added that there is no harm, and significant potential benefit, to responding to the ACE's request for letters supporting moving to the feasibility phase. He recommended that Dennis Doyle sent the letter.

Dennis Doyle clarified that the Planning Department is not seeking any formal approval, but is merely updating the Committee on the status of this process.

Department of the Environment:

Amanda LaValle reported that the Department of the Environment did apply for the Hudson River Estuary Program (HREP) grant to assist construction of the Natural Resources Inventory. The Department has two part-time summer interns, working on GIS mapping (including stormwater mapping) and website design.

MS4:

The Department is helping DPW comply with the new permit. DPW staff is stenciling the MS4 storm drains, and the DoEnv intern is mapping the MS4 sewer sheds. Ulster County is also teaching sewer shed mapping to two towns, and supported the City of Kingston in its application for a HREP grant for an MS4 project.

Energy policy:

Amanda LaValle and Martin J. Reisinger are working with TSEC (see June minutes) and DPW on a possible collaborative project, perhaps at the new salt shed. Work continues on the county's energy policy.

Environmental Plan:

A draft plan is near completion. The Department of the Environment will be reviewing the plan with the coordinated county department head at a meeting this week. The draft plan will be reviewed by the Ulster County Environmental Committee; the final plan will be reviewed by the EMC.

The plan's four core projects are department set-up, stormwater, sustainability, and natural resources. Energy policy and recycling fall under sustainability; the natural resources inventory (NRI) is the keystone of the department's natural resource work.

Environmental Management Council:

EMC Membership:

John Maylie reported that William Kells had passed away. David Donaldson had sent him a letter of appreciation shortly before he passed. John spoke with his wife, Marion, who had read the letter to him in his final days. Brian Shapiro also spoke with Bill during this period.

Addressing the recent concern of some Environmental Committee members with an excess number of at-large EMC members, John emphasized that, as the EMC is a purely advisory body, there is very little risk of a lawsuit about its composition.

Outdoor wood burning boilers:

John also reported that he had drafted a letter, on behalf of the EMC, asking the Environmental Committee to pass a resolution, directed to Albany, recommending state regulation of outdoor wood burning boilers (OWBs). The EMC has recommended that new OWBs meet the same air quality requirements as new wood stoves, and that fuel be regulated to prevent the burning of [smoky] green wood, garbage, or C&D. Gary Bischoff was concerned that regulating OWBs would drive up their cost, preventing "folks from being resourceful." John's response was that OWB regulations usually grandfather in existing equipment, while regulating future installations to protect neighbors' health, comfort, and property values. Typical regulations specify OWB parcel boundary setbacks and minimum parcel sizes for OWB use. Rich Parete clarified OWB costs, and detailed that adding a catalytic converter might raise average equipment cost from \$5,000 to \$6,000. See attachments for documents on OWB from government and industry perspectives.

Open Space Partnership:

John is recommending David Straus as the main EMC representative, with Hank Bartosik as an alternate to guarantee coverage at meetings.

Plastic Bag Legislation:

After discussion, the decision to form an ad hoc committee to consider regulating plastic bags in Ulster County was postponed to the August meeting. David Gross, who brought the topic to the June meeting, is an obvious potential member. Gary Bischoff and Laura Petit would represent the County. The committee's two other members would, like David, represent the public.

Public Comment:

Guest Peter Robbins distributed copies of "Green Times"

Adjourn:

Hector Rodriguez made a motion, seconded by Laura Petit, to adjourn. The motion was approved unanimously, and the meeting adjourned at 8:10 PM.

*from Amanda LaValle's 7/18/08 email to the Committee:

"Silver Hollow - I spoke with Dave Sheeley (UCDPW) and Eric Hoffmeister (Shandaken Highway Superintendent) about the failing railroad abutment in the Stony Clove Creek that Mr. Barry had expressed concern regarding. According to Eric and Dave, this project is being progressed with FEMA funding. (Which is very fortunate since it will probably cost 300-400K to address.) Earth Tech is the contractor on this job. They have put together several design options for construction and repair. Apparently FEMA has those now and should be making a decision about which option they want to progress. I got no sense that this project was stalled in any way. And according to Mr. Sheeley it is actually moving along very well for a FEMA job."

**elevation as measured to top of subfloor of first floor used for living